

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 24, 2007

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, July 24, 2007.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Stephen Gawron after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioner Kevin Davis, Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2007-60 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the July 9th Commission Worksession, and the July 10th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

C. FIRST READING: Amendment to the Zoning Ordinance – Clarify “Horizontal Plane”. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2331 (Landscaping, Fencing, Walls, Screens, and Lighting, # 20, d) of Article XXIII (General Provisions) clarifying the “horizontal plane” of a light fixture.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the language regarding horizontal plane.

COMMITTEE RECOMMENDATION: The Planning Commission recommended

approval of the request at their July 12th meeting. The vote was unanimous with T. Harryman and B. Smith absent.

F. Urban Renewal Plan Project R-134. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To request Commission to instruct Wilmern Griffin, City of Muskegon Community and Neighborhood Services Director, to sign the affidavit that to the best of his knowledge the U.S. Department of Housing and Urban Renewal has signed off on the Urban Renewal Plan Project R-134. Therefore, the redevelopment of the downtown site can continue without any title issues.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

G. Lead Based Paint Abatement at 218 Catherine. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Specialty Builders of 2434 Annette, Muskegon, Michigan, for the lead base paint abatement of the city-owned home at 218 Catherine for the cost of \$21,750.

The City received two additional bids:

- **DeRose Builders**, of 7786 Wiczer Drive, Whitehall, Michigan, for \$24,550
- **Statewide Abatement** of 1720 Creston Avenue, Muskegon, Michigan for \$27,800

After the lead base paint abatement is complete the structure will be totally rehabilitated and then sold to a qualified low to moderate-income homebuyer.

FINANCIAL IMPACT: Cost of the abatement will be allocated from the 2007-2008 HOME budget.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve Community and Neighborhood Services office to develop a contract with Specialty Builders of Muskegon, and direct the Mayor and Clerk to sign the contract.

H. Approval of Contractor for Rehabilitation of House at 218 Catherine. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with J2 Development, 109 West Laketon, Muskegon, Michigan, for the completion of the rehabilitation to be located at 218 Catherine, for the cost of \$52,511.

After the total rehabilitation is completed the home will be sold to a qualified first-time homebuyer, continuing the City's aggressive neighborhood revitalization efforts in the Angell neighborhood area under the Operation: "**A Place you call Home**".

The City received five additional bids:

- **DH Construction** of 3680 Ryerson, Twin Lake, Michigan, for \$54,003
- **Lewis Johnson** of 16976 Bonita Court, Grand Haven, Michigan, for \$58,800
- **Specialty Builders** 2434 Annette Avenue, Muskegon, Michigan, for \$63,207
- **Obenauf DePender Construction LLC** of 4471 Thompkins Trail, Muskegon, Michigan, for \$71,220
- **DeRose Builders** of 7786 Wiczer Drive, Whitehall, Michigan, for \$78,552

FINANCIAL IMPACT: The funding for the project will be taken from the City's 2007-2008 HOME funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve Community and Neighborhood Services office to develop a contract with J2 Development, 109 W. Laketon, and direct the Mayor and Clerk to sign the contract.

I. Approval of Contractor for Construction of new House at 539 Orchard.
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Murphy Brothers Construction, 2519 McArthur, Muskegon, Michigan for the construction of the new home to be located at 539 Orchard for the cost of \$110,994. After the construction is completed, the new home will be sold to a qualified first-time homebuyer continuing the City's aggressive neighborhood revitalization efforts in the Angell Neighborhood under the Operation "Community Uprising".

The City received six other bids:

DeRose Builder, 7786 Wiczer Drive, Whitehall, MI	\$115,318.00
Beattie Brothers Builder, 2786 Holton, Whitehall, MI	\$120,222.17
Specialty Builders, 2434 Annette, Muskegon MI	\$131,043.65
Holden Construction, 601 Amity, Muskegon, MI	\$135,663.00
Lakeshore Construction, 8253 S. 116 th , Rothbury, MI	\$139,250.00
Rich Construction, 28 E. Main, Fremont, MI	\$137,674.09

FINANCIAL IMPACT: The funding for the project will be taken from the City's 2007-2008 HOME funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve Community and Neighborhood Services office to develop a contact with Murphy Brothers Construction and direct the Mayor and Clerk to sign the contract.

K. Budgeted Meter Reading Equipment Replacement. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two SSI AR 5000 Solid State Interrogators - Hand Held Meter Reading Units. Currently the City owns four hand held meter reading units. Two meter reading units are 14 years old and two units were replaced last year. This proposal is intended to replace the two 14 year old units.

FINANCIAL IMPACT: Total cost \$9,200.

BUDGET ACTION REQUIRED: None, included in 2007 Budget.

STAFF RECOMMENDATION: To approve purchase from Etna Supply.

N. Request for an Encroachment Agreement - Lorin Industries.
ENGINEERING

SUMMARY OF REQUEST: Lorin Industries has filed the enclosed encroachment agreement form to install three monitoring wells in the public right of way of Keating Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

O. Request for an Encroachment Agreement on Third Street.
ENGINEERING

SUMMARY OF REQUEST: Muskegon Main Street has requested your permission to place three open bottom planters along Third Street. The planters will be filled with grade 6A gravel topped with landscape fabric, soil, and perennial flowers. Muskegon Main Street and the businesses along the Third Street corridor will jointly maintain the planters.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement with the supplemental conditions.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the Consent Agenda as presented minus items B, D, E, J, L, and M.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, and Davis

Nays: None

MOTION PASSES

2007-61 ITEMS REMOVED FROM THE CONSENT AGENDA:

B. Approval of a Neighborhood Enterprise Zone Certificate. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from Kevin Eden to rehabilitate a home in the Nelson neighborhood at 372 W. Muskegon Avenue. The home is located in a Neighborhood Enterprise Zone. The application states that the estimated cost for rehabilitation will be \$46,400. The addition of a new foundation (complete basement), new front porch with steps, new sidewalks (from the front and side doors to the sidewalk at the street), new rear porch steps, reconstruction of front porch brick columns and stone work, new concrete parking slab, and a new roof for the home. The applicant has met local and state requirements for the issuance of the NEZ certificate. Approval or denial by the City Commission is required within 60 days of the application date and must be forwarded to the State Tax Commission.

FINANCIAL IMPACT: Taxation will be 50% of the State average for the next 11 years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve issuance of the NEZ certificate.

Motion by Commissioner Davis, second by Commissioner Shepherd to approve the Neighborhood Enterprise Zone for 372 W. Muskegon Avenue.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

D. FIRST READING: Rezoning Request for Property Located at 1024 Sophia Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 1024 Sophia Street, from R-1, One Family Residential District to B-2, Convenience and Comparison Business District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their July 12th meeting. The vote was unanimous, with T. Harryman and B. Smith absent.

Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the rezoning request for property located at 1024 Sophia Street.

ROLL VOTE: Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

E. Water Plant Reliability Study. WATER FILTRATION

SUMMARY OF REQUEST: To enter into contract with the engineering firm of Fishbeck, Thompson, Carr & Huber for performance of the Water Filtration Plant Reliability Study.

FINANCIAL IMPACT: The professional proposal cost is \$46,238.

BUDGET ACTION REQUIRED: The study cost is to be paid by the capitol improvements section of the water fund.

STAFF RECOMMENDATION: Staff recommends the Mayor and City Commission enter into contract with Fishbeck, Thompson, Carr & Huber for performance of the Water Filtration Plant Reliability Study at a cost of \$46,238.

Motion by Commissioner Davis, second by Commissioner Carter to approve the water plant reliability study contract with Fishbeck, Thompson, Carr & Huber.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

J. Well Installation. CEMETERY

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Brass-Mar Water Wells Inc. out of 13427 Fruit Ridge, Kent City, since they were the lowest responsible bidder with a bid price of \$25,043.

FINANCIAL IMPACT: Cost of drill/installing one well of \$25,043.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Brass-Mar Water Wells Inc.

Motion by Commissioner Davis, second by Vice Mayor Gawron to approve the agreement with Brass-Mar Water Wells for the well installation.

ROLL VOTE: Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Carter

Nays: None

MOTION PASSES

L. Service Agreement with Muskegon Heights. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize the Mayor and Clerk to sign the agreement with Muskegon Heights to maintain their fleet.

FINANCIAL IMPACT: Potential revenue of \$20,000 to \$30,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the service agreement with Muskegon Heights and authorize the Mayor and Clerk to sign the agreement.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the service agreement with Muskegon Heights.

ROLL VOTE: Ayes: Wierengo, Carter, Davis, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

M. Transfer Ownership of Sanitary Sewer. PUBLIC WORKS

SUMMARY OF REQUEST: For many years the City of Muskegon has owned and maintained a sanitary sewer that is a collection sewer for three cities. This sewer line was most likely overlooked when local lines were turned over to the County of Muskegon during the original Wastewater Project. This line is used by both the City of Norton Shores and the City of Roosevelt Park and no interagency agreement for joint maintenance was ever executed.

FINANCIAL IMPACT: The potential of future maintenance expense will now be shared by all users rather than just the City of Muskegon.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Recommend that the City of Muskegon transfer ownership of this collection sanitary sewer to the Muskegon County Wastewater System.

Motion by Commissioner Davis, second by Commissioner Carter to approve the transfer of ownership of the sanitary sewer to the County of Muskegon.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd

Nays: None

MOTION PASSES

2007-62 PUBLIC HEARINGS:

A. Request for an Industrial Facilities Exemption Certificate – ADAC Plastics. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, ADAC Plastics, 1801 E. Keating Avenue, has requested the issuance of an Industrial

Facilities Exemption Certificate for the property located at 1801 E. Keating, Muskegon. The total capital investment is approximately \$500,000 in personal property and \$2,775,000 in real property. This request qualifies ADAC Plastics for a term of twelve years for real property and six years for personal property.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of twelve years for real property and six years for personal property. In addition, the City's Affirmative Action Director met with ADAC staff to discuss their affirmative action plan on Friday, July 20.

The Public Hearing opened to hear and consider any comments from the public. Leland Davis, 1148 Terrace Manor, commented.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing and approve the request for an Industrial Facilities Exemption Certificate for ADAC Plastics.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, and Davis

Nays: None

MOTION PASSES

2007-63 NEW BUSINESS:

A. Extension of Time Period for Existing Renaissance Zone Parcels.
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Last year, PA 440 (HB 5942) amended the Michigan Renaissance Zone Act (PA 376 of 1996) to allow for the extension of time for one or more portions of existing Renaissance subzones. In order for any extensions to be approved by the State, the local municipality must first grant approval. In addition, the development must be new to the zone and it must be shown that the existing renaissance zone has not experienced significant development. Staff is aware of a few projects that will be seeking Renaissance Zone extensions. Therefore, City Commission is asked to approve the Policy for "Extension of Time Period for Existing Renaissance Zone Parcels". Any and all requests for individual extensions will require an Agreement between the property owner/developer and the City, and will be presented to the City Commission for approval.

FINANCIAL IMPACT: None at this time, but approval of the Policy should generate additional development within the Muskegon Renaissance Zones.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Policy.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the policy for extension of time period for existing Renaissance Zone parcels.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

B. Request to Purchase Office Furniture. PUBLIC SAFETY

SUMMARY OF REQUEST: Fire Department staff is requesting approval by the Commission to allow for the procurement of office furniture for the new Central Fire Station. The low bid, which meets all stated specifications, was submitted by Lakeshore Office Furniture, 2615 Temple Street, Muskegon, MI 49444. The bid price submitted by Lakeshore is \$6,504.20.

FINANCIAL IMPACT: Funds for this purchase are provided for in the building fund for the new Central Fire Station.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the request to purchase office furniture for the new Central Fire Station.

ROLL VOTE: Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard from the public.

2007-64 CLOSED SESSION: Three items - property acquisition and discuss attorney client privilege.

Motion by Commissioner Carter, second by Commissioner Spataro to go into three separate Closed Sessions to discuss property acquisition and attorney client privilege.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to come out of Closed Session.

ROLL VOTE: Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo,

and Carter

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk